

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY
and
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 14102 of 2005

Dated: 03-08-2005

Between:

N. Badrinath, s/o. N. Munirathnam, Aged:46 years, Bus Owner, R/o.Door No.15/532,
Kamalanagar, Anantapur, Anantapur District.

..Petitioner.

And

Regional Transport Officer, Anantapur, Anantapur District.

..Respondent.

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY
and
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 14102 of 2005

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ORDER: (Per Sri B. Sudershan Redy, J)

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The order, dated 19-8-2004 on the file of the Regional Transport Officer, Anantapur, in our considered opinion, is not vitiated for any reason whatsoever requiring our interference in exercise of jurisdiction under Article 226 of the Constitution of India.

The petitioner herein, being the owner of the vehicles, whose details are mentioned in the impugned order applied for refund of the tax of Rs.11,230/- which was paid in three cases referred to in the order. The basis for the claim is the judgment of this Court in W.P.No.11463 of 2002 dated 5-2-2004, in which this Court declared para 1 (iii), para 3 and explanation VI (iv) of para 5 of G.O.Ms.No.77 dated 1-6-2002 to be invalid. The authority observed that the tax was levied and collected in accordance with Explanation III (ii) of G.O.Ms.No.152 dated 1-12-2001 and not G.O.Ms.No.77 dated 1-6-2002. It is for that reason, the authority did not refund.

In this writ petition, it is not possible to undertake any critical examination as to whether the levy of difference tax in respect of those three cases under

Explanation III (ii) of G.O.Ms.No.152 dated 1-12-2001 itself is vitiated since no such dispute is raised by the petitioner before any competent authority and not even in this writ petition.

For the aforesaid reasons, this writ petition shall stand dismissed with liberty granted to the petitioner to raise the dispute as regards the levy and collection of the tax itself, if he is so advised, in which event, the matter may have to be adjudicated on its own merits. No order as to costs.

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(B. Sudershan Reddy, J)

03-08-2005

(Ramesh Ranganathan, J)

sj/ks